

Before the
Federal Communications Commission
Washington, D.C. 20554

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FILE

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. 92-70
)	
SABLE COMMUNITY BROADCASTING)	File No. BPED-851003MB
CORPORATION)	
Channel 217A)	
Hobson City, Alabama)	
)	
GADSDEN STATE COMMUNITY COLLEGE)	File No. BPED-860307MK
Radio Station WSGN(FM))	
Channel 218C3)	
Gadsden, Alabama)	
)	
TRINITY CHRISTIAN ACADEMY)	File No. BPED-860512MB
Channel 217A)	
Oxford, Alabama)	
)	
For a Construction Permit for New)	
and Modified Noncommercial)	
FM Facilities at Hobson City,)	
Gadsden and Oxford, Alabama)	

TO: Honorable Arthur I. Steinberg
Administrative Law Judge

EMERGENCY
CONTINGENT PETITION FOR RECONSIDERATION
AND
MOTION FOR STAY

Bible Broadcasting Network, Inc. ("BBN") by its
attorneys, and pursuant to Section 1.106 of the Commission's
Rules respectfully (and on a contingent basis)¹ petitions the

¹ This Opposition is contingent upon the Presiding Officer's action on BBN's Petition for Leave to Intervene which is being filed today. Further, BBN requests the Presiding Officer to waive the responsive pleading timing provisions of Section 1.251 since it was not possible for BBN to oppose the Gadsden State Motion prior to this date. This pleading is being filed only one day after the deadline set by Section 1.251, and BBN is not yet a party to the proceeding. BBN had no notice prior to June 18, 1992, that the Gadsden State application might adversely affect BBN, and had no confirmation of this fact until BBN's consulting radio engineer studied the matter and prepared his report. The affidavit required to support a petition for intervention was received today, and this pleading is filed on the same date. All this should be ample good

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Presiding Officer to reconsider his action in Order, FCC 92M-646, released June 5, 1992, which granted a petition for leave to amend and accepted an amendment by Gadsden State Community College ("Gadsden State") to its application (File No. BPED-860307MK) for a modification of the facilities of Noncommercial Educational FM Station WSGN, Gadsden, Alabama. The amendment changed the channel number requested by Gadsden State to 218 in lieu of 217. Undersigned counsel is informed that the Presiding Judge has signed an order today granting Gadsden State's application but that Order has not been released.² In that event, BBN respectfully requests that the Judge reconsider that action, or stay the effectiveness of it. In support of this petition, BBN shows the following:³

Evidence just discovered by BBN indicates that there will be prohibited overlap between the application of Gadsden State Community College ("Gadsden State") and the proposed Class C-2 facilities of WYFD.

Attached hereto is an affidavit of BBN's qualified radio engineer describing the extent of interference which would be

cause for the presiding officer to fully consider this Opposition despite is technically late filing.

² Until the full text of that Order is actually released, the Presiding Officer retains jurisdiction of the case and has the authority to set aside this action pending consideration of this Petition, cf. 47 C.F.R. §1.267(c) ("ID") and 47 C.F.R. §1.102(b) as to interlocutory orders.

³ BBN is today also filing (a) a Notice of Appearance, (b) Petition for Leave to Intervene, and (c) Contingent Opposition to Motion for Summary Decision.

caused by Gadsden's station. By way of background, on July 10, 1991, BBN filed an application (BPED-910710MD) seeking modification of the facilities of WYFD. This application was taken into consideration by Gadsden State in its amendment filed May 21, 1992. On June 18, 1992, undersigned counsel was making a routine status check with the Mass Media Bureau processing staff last week when he learned that the WYFD application might be affected by the Gadsden State application. On June 19, 1992, counsel ordered a copy of the pertinent items in the docket, among which was a copy of Gadsden State's amendment filed May 21, 1992, and Gadsden State's Motion for Summary Decision. On June 19, 1992, counsel sent the amendment by Federal Express to BBN's consulting radio engineer who made a study of it. Today, counsel received by overnight courier the engineer's overlap study.

The engineering study by BBN's consulting radio engineer received in counsel's office today indicates that prohibited overlap would exist between the 0.5 mV/m 50/10 contour of WYFD from BPED-910710MD and the 1.0 mV/m 50/50 contour proposed by Gadsden State. BBN's engineering statement indicates that the overlap would be eliminated if Gadsden State reduced its power in its major lobe to 5 kW. No other changes would be required.

The Presiding Judge's June 5, 1992, Order was based on showings that there would be no prohibited overlap between

WYFD and WSGN. However, here BBN has shown that there would be prohibited overlap between the proposed facilities of WSGN and WYFD. Unless WSGN agrees to coordinate with WYFD and reduce its power to eliminate the prohibited overlap, the action taken in Order, FCC 92M-646, should be rescinded. To the extent the Presiding Officer has acted to grant Gadsden State's application, his action should be stayed.

WHEREFORE, BBN respectfully requests the Presiding Officer to reconsider his action in Order, FCC 92M-646, released June 5, 1992, and to stay any further actions which would lead to grant of Gadsden State's application.

Respectfully submitted,

BIBLE BROADCASTING NETWORK, INC.

By: 

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Its Counsel

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June 24, 1992

CERTIFICATE OF SERVICE

I, Lisa M. Volpe, a legal assistant in the law firm of Smithwick, & Belendiuk, P.C., certify that on this 24th day of June 1992, copies of the foregoing were mailed, first class, postage paid to the following:

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